

These two issues have come up in the last few days and have certainly aroused my suspicions. I call on the good offices of the Secretary of Defense, who I think personally is doing a very good job, to see that his organization snaps to and produces the documentation the Senate needs in its oversight capacity.

#### VARELA PROJECT

Mr. NELSON of Florida. Mr. President, in just a few minutes we will have a vote on a resolution, thanks to the chairman of our Western Hemisphere Subcommittee, Senator DODD, and the chairman of the Foreign Relations Committee. He so graciously, for me, has set this vote in just a few minutes on a resolution that passed out of the Foreign Relations Committee unanimously commending, as a Senate resolution, the very courageous citizens in the country of Cuba who have put their lives on the line by putting their names and addresses on the line under the Cuban Constitution, petitioning for free elections, petitioning for freedom of speech, petitioning for a release of political prisoners, petitioning to move from a state-controlled economy to an economy of free enterprise. Those 11,000 courageous citizens, operating under the Constitution of Cuba, stepped forth under the constitutional provision that says if over 10,000 petition the Government, the Government will take up the matter in the National Assembly to act on those four freedoms I just mentioned.

I want to bring to the attention of our colleagues the fact that these people have put their lives on the line. The Castro government could stop it tomorrow. But today the Senate will send a strong message of support for these courageous citizens of Cuba who are playing by the rules and who want to see the winds of change and the fresh breath of freedom suddenly start to be realized in Cuba.

I am so grateful to the chairman of the full committee and the chairman of the subcommittee that they have brought forthwith so quickly this resolution so that the Senate can stand on record to commend these citizens in Cuba.

I see my colleague, the chairman of our subcommittee, ready to speak. Few people knew about this project called the Varela Project until President Carter went to Cuba. When he had that chance to speak live to the Cuban people by radio and TV, he spoke about the Varela Project and how courageous these folks were. All the people of Cuba now know what it is. Today, the Senate is going to have a chance to go on record to support them.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are only a few minutes before the vote. What time is the vote?

The PRESIDING OFFICER. The time is 5:45.

Mr. DODD. I see my colleague from the State of Washington who wants to address another matter. I will be brief.

I commend our colleague from Florida for crafting this resolution, which will be voted on shortly, by the Senate. He is absolutely correct, it did come out of our committee with a unanimous vote.

Mr. President, I rise in support of S. Res. 272. All too often when we have engaged in debate on matters related to Cuba, there have been a great deal of polemics—a lot of heat but very little light shed on the subject matter under debate. That is not the case with the resolution we are considering this afternoon.

I have been critical in the past on various policies the US has pursued regarding Cuba. The audience we ought to listen to most are the people behind the projects like the Varela Project, the people who have stayed in Cuba to try to bring about change there—those who have been incarcerated for 15, 20, 25 years, in some cases longer—because of their political views. Those who have authored this Varela Project deserve a great deal of credit for having the courage to round up 11,000 signatures, which is remarkable considering some of the pressures they will be under.

I commend Senator BILL NELSON of Florida for crafting this resolution. He has attempted to stick to the facts and to keep the spotlight on what is actually happening on the Island of Cuba.

This resolution recognizes a remarkable occurrence—the fact that 11,000 Cubans have petitioned their government for the holding of a referendum on civil, political and economic changes they wish to see. It is also refreshing that, thus far, the government of Cuba has taken no action against the organizers of this effort.

Thanks to the recent visit of former President Jimmy Carter to Havana last month, the Varela project now has international visibility. More importantly, because President Carter's speech, including references to this effort, was broadcast on Cuban TV and radio, and reprinted verbatim in the official Cuban newspaper, the Cuban people are now aware of this as well.

The organizers of Varela have chosen to exercise their rights under the Cuban Constitution to submit legislative proposals to the National Assembly for its consideration. Some in the Cuban exile community have been critical of this effort because they believe it legitimizes the Cuban constitution and therefore it should be opposed. I reject that argument.

For too long we in the United States have tried to tell the Cuban people what is best for them. We did so at the time of Cuban independence from Spain and we did so again during the Batista regime. The result was the 1959 Cuban revolution and the Castro Government.

Let's listen to the voices inside Cuba. Let's listen to those who have stayed

in Cuba and sought to change it from within.

Those voices have called for the United States to engage with Cuba. Those voices have called for an end to the travel ban.

If the Carter visit demonstrated anything, it demonstrated that the presence of Americans in Cuba offers opportunities for more political space in Cuba not for shoring up the Castro regime.

Mr. President, the Varela project was inspired by Cuban citizens. These citizens have taken advantage of rights provided to them under the Cuban Constitution. The Cuban government should honor those rights and give serious consideration to this request.

We in the United States should demonstrate self restraint and allow Cubans to retain ownership of this initiative. We need to be careful not to appropriate these internal efforts inside Cuba. If we give it too much of a label of "made in the U.S.," then this project will be hurt and the effort will be hurt. We have been warned repeatedly by dissidents and human rights activists inside Cuba that, too often, if we become associated with efforts there, they are seen as nothing more than tools of United States foreign policy with regard to Cuba. We should try not to give the Castro government any opportunities to suggest that this is just another plot by the United States to attack the Cuban people.

I commend the organizers of the Varela initiative and all who have joined with them in their effort to seek peaceful change in Cuba. I stand ready to listen to their voices and assist them in any way they believe will be helpful in bringing their aspirations to fruition.

What is most important is not what we do, but rather what they are doing in Cuba, what they are showing by their tremendous sense of commitment to democracy and freedom. For those reasons, we are endorsing their effort with this resolution, and I strongly support it and urge its adoption.

I yield the floor.

#### THE VARELA PROJECT'S COLLECTION OF CERTIFIED SIGNATURES IN SUPPORT OF A NATIONAL REFERENDUM AND THE DELIVERY OF THESE SIGNATURES TO THE CUBAN NATIONAL ASSEMBLY

The PRESIDING OFFICER. Under the previous order, the clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 272) expressing the sense of the Senate regarding the success of the Varela Project's collection of 10,000 certified signatures in support of a national referendum and the delivery of these signatures to the Cuban National Assembly.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations with an amendment and an

amendment to the preamble, as follows:

(The parts of the preamble intended to be stricken are shown in boldface brackets, and the parts of the preamble intended to be inserted are shown in italic.)

## S. RES. 272

[Whereas Article 88 of the Cuban Constitution states that the Cuban National Assembly should schedule a national referendum if it receives the verified signatures of 10,000 legal voters;

[Whereas on May 10, 2002, a group of Cuban citizens led by Oswaldo Paya delivered 11,020 verified signatures to the Cuban National Assembly in support of a referendum;

[Whereas Mr. Paya's petition drive is inspired by the 19th-century priest and Cuban independence hero, Padre Felix Varela, and is known as the Varela Project;

[Whereas the Varela Project seeks a referendum on civil liberties, including freedom of speech, amnesty for political prisoners, support for private business, a new electoral law, and a general election;

[Whereas the Varela Project is supported by 140 opposition organizations in Cuba and has received no money or support from foreign citizens or foreign governments;

[Whereas the Varela Project is the largest petition drive in Cuban history;

[Whereas the Varela Project seeks amnesty for all of those who have been detained, sanctioned, or jailed for political motives and who have not participated in acts directly threatening the lives of others;

[Whereas the Varela Project seeks to guarantee citizens the right to form private businesses, to carry out economic activities that could be productive and of service, and to establish contracts between workers and businesses for the development of these businesses in fair and just conditions so that no one may obtain profits by exploiting the work of others;

[Whereas the Varela Project is a step in moving Cuba toward achieving international standards for human rights;

[Whereas the goal of United States policy in Cuba is to promote a peaceful transition to democracy through an active policy of supporting the forces of change on the island; and

[Whereas the Varela Project is engaged in the promotion of a peaceful transition to democracy in Cuba: Now, therefore, be it]

*Whereas Article 88 of the Cuban Constitution provides for Cuban citizens to submit legislative proposals to the Cuban National Assembly for its consideration;*

*Whereas on May 10, 2002, a group of Cuban citizens led by Oswaldo Paya delivered 11,020 verified signatures to the Cuban National Assembly in support of a referendum;*

*Whereas Mr. Paya's petition drive is inspired by the 19th-century priest and Cuban independence hero, Padre Felix Varela, and is known as the Varela Project;*

*Whereas the Varela Project seeks a referendum on civil liberties, including freedom of speech, amnesty for political prisoners, support for private business, a new electoral law, and a general election;*

*Whereas the Varela Project is supported by 140 opposition organizations in Cuba and has received no money or support from foreign citizens or foreign governments;*

*Whereas the Varela Project is the largest petition drive in Cuban history;*

*Whereas the Varela Project is a step in moving Cuba toward achieving international standards for human rights;*

*Whereas the goal of United States policy in Cuba is to promote a peaceful transition to democracy; and*

*Whereas the Varela Project is engaged in the promotion of a peaceful transition to democracy in Cuba: Now, therefore, be it*

*Resolved, [That the Senate—*

*(1) supports the constitutional right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum;*

*(2) calls on the Cuban government to accept the Varela Project petition and, in accordance with its obligation under Article 88 of the Cuban Constitution, to hold a referendum on civil liberties, including freedom of speech, an amnesty for political prisoners, support for private business, a new electoral law, and a general election;*

*(3) praises the bravery of Oswaldo Paya and his colleagues in collecting 11,020 verified signatures in support of the Varela Project;*

*(4) calls on the Cuban government to provide its citizens with internationally accepted standards for civil and human rights, and the opportunity to vote in free and fair elections;*

*(5) urges the President and his representatives to take all appropriate steps to support the Varela Project and any future efforts by the Cuban people to assert their constitutional right to petition the National Assembly in support of a referendum; and*

*(6) urges the President to pursue an action-oriented policy of directly assisting the Cuban people and independent organizations to strengthen the forces of change and to improve human rights in Cuba.*

**[SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.]**

*That the Senate—*

*(1) supports the constitutional right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum;*

*(2) calls on the Cuban National Assembly to give serious consideration to the Varela Project petition in accordance with Article 88 of the Cuban Constitution and to the holding of a referendum on civil liberties, including freedom of speech, an amnesty for political prisoners, support for private business, a new electoral law, and a general election;*

*(3) praises the bravery of Oswaldo Paya and his colleagues in collecting 11,020 verified signatures in support of the Varela Project;*

*(4) calls on the Cuban government to provide its citizens with internationally accepted standards for civil and human rights, and the opportunity to vote in free and fair elections; and*

*(5) urges the President to support the right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum and the peaceful transition to democracy.*

**SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.**

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nebraska (Mr. NELSON), and the Senator from New Jersey

(Mr. TORRICELLI), are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Connecticut (Mr. LIEBERMAN) would each vote "yea."

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), the Senator from Arizona (Mr. MCCAIN), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Idaho (Mr. CRAPO), are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 146 Leg.]

## YEAS—87

Akaka	Domenici	Lott
Allard	Dorgan	Lugar
Allen	Durbin	McConnell
Baucus	Edwards	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nickles
Boxer	Fitzgerald	Reed
Breaux	Frist	Reid
Brownback	Graham	Roberts
Bunning	Gramm	Rockefeller
Burns	Grassley	Santorum
Byrd	Gregg	Sarbanes
Campbell	Hagel	Schumer
Cantwell	Hatch	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Craig	Kyl	Thompson
Daschle	Landrieu	Thurmond
Dayton	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lincoln	Wyden

## NOT VOTING—13

Biden	Hutchinson	Nelson (NE)
Corzine	Kennedy	Torricelli
Crapo	Lieberman	Voinovich
Harkin	McCain	
Helms	Mikulski	

The resolution (S. Res. 272), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

## S. RES. 272

Whereas Article 88 of the Cuban Constitution provides for Cuban citizens to submit legislative proposals to the Cuban National Assembly for its consideration;

Whereas on May 10, 2002, a group of Cuban citizens led by Oswaldo Paya delivered 11,020 verified signatures to the Cuban National Assembly in support of a referendum;

Whereas Mr. Paya's petition drive is inspired by the 19th-century priest and Cuban independence hero, Padre Felix Varela, and is known as the Varela Project;

Whereas the Varela Project seeks a referendum on civil liberties, including freedom of speech, amnesty for political prisoners,

support for private business, a new electoral law, and a general election;

Whereas the Varela Project is supported by 140 opposition organizations in Cuba and has received no money or support from foreign citizens or foreign governments;

Whereas the Varela Project is the largest petition drive in Cuban history;

Whereas the Varela Project is a step in moving Cuba toward achieving international standards for human rights;

Whereas the goal of United States policy in Cuba is to promote a peaceful transition to democracy; and

Whereas the Varela Project is engaged in the promotion of a peaceful transition to democracy in Cuba: Now, therefore, be it

*Resolved,*

That the Senate—

(1) supports the constitutional right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum;

(2) calls on the Cuban National Assembly to give serious consideration to the Varela Project petition in accordance with Article 88 of the Cuban Constitution and to the holding of a referendum on civil liberties, including freedom of speech, an amnesty for political prisoners, support for private business, a new electoral law, and a general election;

(3) praises the bravery of Oswaldo Paya and his colleagues in collecting 11,020 verified signatures in support of the Varela Project;

(4) calls on the Cuban government to provide its citizens with internationally accepted standards for civil and human rights, and the opportunity to vote in free and fair elections; and

(5) urges the President to support the right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum and the peaceful transition to democracy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. REID. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### WAR POWERS AND THE CAMPAIGN AGAINST TERRORISM

Mr. FEINGOLD. Madam President, today I would like to address one of the most complicated but ultimately one of the most important constitutional questions confronting this country as we respond to the atrocities of September 11: that is, the question of how America decides to go to war. This is no easy issue, but it is one that Congress is duty-bound to address.

As we know, war powers are purposefully divided under our Constitution. Under Article I, Section 8, Congress has the responsibility to declare war, and to raise and support the Armed

Forces. The President, under Article II, Section 2, is the Commander in Chief, which gives him responsibility for leading the Armed Forces. The War Powers Resolution of 1973 fulfills the intent of the Framers of the Constitution by providing a framework for balancing these powers, and thereby ensuring that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces into hostilities, or into situations where imminent involvement in hostilities is likely.

In April, I had a chance to chair a hearing in the Constitution Subcommittee of the Judiciary Committee to consider this balance of war powers authority under the Constitution, particularly as we move forward with our fight against terrorism. In the hearing, there was much praise for the respect demonstrated by President Bush, this President Bush, for both the Congress and the Constitution in seeking congressional authorization to respond with appropriate force to the attacks of September 11. The language in that authorization, Senate Joint Resolution 23, paralleled some of the careful oversight provisions contained in the use-of-force resolution that former President Bush obtained before launching Operation Desert Storm in 1991. In those two cases, both Presidents took the important and constitutionally mandated step of obtaining congressional approval for an expansive new military operation. And in both cases, I do believe, congressional support strengthened the President's response.

History demonstrates that respect for our Constitution and for the shared war powers authority of Congress is politically practical. Indeed, as our Founders and many subsequent commentators have recognized, the separation of war powers between the two branches of government wisely forces us to develop a broad national consensus before placing our Nation's young people in harm's way. And as we have seen time and again, the United States is indeed the most formidable military force on this planet, provided our soldiers are entrusted with a clear military goal, and through congressional authorization, with the popular mandate that is needed to back them up.

Senate Joint Resolution 23, which was passed by both Houses of Congress and signed into law by the President in the aftermath of September 11, provides the President with statutory authorization to prevent related acts of terrorism. In adopting the use-of-force resolution, the President recognized that Congress he said, "acted wisely, decisively, and in the finest traditions of our country." The resolution demonstrated that Congress has the capacity to fulfill its constitutionally mandated responsibility, and in so doing Congress can help unify the nation in a time of national crisis.

Under the careful structure of S.J. Res. 23, the President now has statu-

tory authority to prevent future terrorist attacks by responding with force against any nations, organizations or persons responsible for planning, authorizing, aiding or harboring the terrorists who were responsible for the September 11 attack. Now, given the unprecedented nature of the threat, this provides a pretty broad mandate to the President to respond militarily.

But this Congressional action, while admittedly broad, is not a blank check. The Resolution limits the President's authority in two essential respects.

To begin, the authorization is limited to situations where there is a connection to the events of September 11. The hearing in the Constitution Subcommittee considered the scope of such a limitation. As I will discuss at greater length, there was widespread agreement in the hearing that absent a clear finding that a state such as Iraq participated in, aided, or otherwise provided support for those who attacked the United States on Sept 11, the President would not be authorized, under the terms of S.J. Res. 23, to take new military action against Iraq. Senate Joint Resolution 23 does not provide unlimited authority to the President to take military action against all bad actors. At the same time, the authorization does foresee broad actions against those responsible for the September attack on the United States.

It is also important to recognize that S.J. Res. 23 states in no uncertain terms that the 1973 War Powers Resolution will continue to apply to our military operations against terrorism. This conforming language is identical to Public Law 102-1, which provided the authorization to use military force to oust Iraq from Kuwait in 1991. In all cases, the War Powers Resolution requires the President to consult with Congress on an ongoing basis on the status, scope, and duration of the hostilities. These consultations need not and should not provide Congress with what would be somehow a meddlesome and unacceptably dangerous role in determining tactical aspects of an active military campaign. But the required consultations must nonetheless assist Congress in its continuing responsibility to evaluate and make ongoing decisions about the broad objectives of an unfolding military operation.

The war powers consultations to date, in my view, have been inadequate. While the administration has taken significant steps to increase the frequency of briefings for Members of Congress, and we do appreciate that those consultations have been conducted as informational briefings, with little opportunity for substantive policy discussions or meaningful give-and-take. As such they do not in most cases reach the threshold level of consultations under the terms of the War Powers Resolution.

The House Report on the 1973 War Powers Resolution notes that "a considerable amount of attention was given to the definition of consultation.